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September 16, 2020

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Hon. J. Paul Oetken  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *Energizer Brands, LLC v. Duracell U.S. Operations, Inc.*,  
Civil Action No. 1:19-cv-09061-JPO

Dear Judge Oetken:

We represent Plaintiff and Counterclaim Defendant Energizer Brands, LLC, (“Energizer”) in the above-referenced action. We write to advise the Court that, pursuant to Fed. R. Civ. P. 15(a)(2) and the Civil Case Management Plan and Scheduling Order (ECF No. 20), Plaintiff filed its Amended Complaint (ECF No. 23). As noted in footnote 1 of the Amended Complaint Defendant and Counterclaim Plaintiff Duracell U.S. Operations, Inc. consented in writing to Energizer’s amendment of its complaint on September 14, 2020. Defendant’s written consent is attached hereto as Exhibit 1.

We thank the Court for its consideration.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'R. Charles Henn Jr.', followed by the text 'R. Charles Henn Jr. (RH3049)' in a standard font.

cc: All counsel (via ECF)

# EXHIBIT 1

**Garcia, Alberto**

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**From:** Medina, Richard A <rmedina@paulweiss.com>  
**Sent:** Monday, September 14, 2020 6:31 PM  
**To:** Henn, Charlie; Gordon, Andrew; Johnson, Darren W  
**Cc:** Delaney, Aaron; Dhaliwal, Rajdeep S.; Brewster, Bill; Wolin, Bryan; Benson, Craig A  
**Subject:** RE: Energizer v Duracell - Amended Complaint

**\*\*CAUTION: External Email\*\***

Charlie,

Duracell will consent to Energizer's request for leave to file its Amended Complaint. You may note our consent in your filing with the Court.

Best,

Rich

**Richard A. Medina** | Associate  
**Paul, Weiss, Rifkind, Wharton & Garrison LLP**  
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*Pronouns: He/Him/His*

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**From:** Henn, Charlie <CHenn@kilpatricktownsend.com>  
**Sent:** Wednesday, September 9, 2020 2:48 PM  
**To:** Gordon, Andrew <agordon@paulweiss.com>; Johnson, Darren W <djohnson@paulweiss.com>  
**Cc:** Delaney, Aaron <adelaney@paulweiss.com>; Medina, Richard A <rmedina@paulweiss.com>; Dhaliwal, Rajdeep S. <rdhaliwal@paulweiss.com>; Brewster, Bill <BBrewster@kilpatricktownsend.com>; Wolin, Bryan <BWolin@kilpatricktownsend.com>; Benson, Craig A <cbenson@paulweiss.com>  
**Subject:** RE: Energizer v Duracell - Amended Complaint

Andrew-

Please let us know by the end of the day Monday, because if we're going to have to draft a motion, we need time to do that before the deadline.

Thanks,  
Charlie

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**From:** Gordon, Andrew <[agordon@paulweiss.com](mailto:agordon@paulweiss.com)>  
**Sent:** Wednesday, September 9, 2020 2:25 PM  
**To:** Henn, Charlie <[CHenn@kilpatricktownsend.com](mailto:CHenn@kilpatricktownsend.com)>; Johnson, Darren W <[djohnson@paulweiss.com](mailto:djohnson@paulweiss.com)>  
**Cc:** Delaney, Aaron <[adelaney@paulweiss.com](mailto:adelaney@paulweiss.com)>; Medina, Richard A <[rmedina@paulweiss.com](mailto:rmedina@paulweiss.com)>; Dhaliwal, Rajdeep S. <[rdhaliwal@paulweiss.com](mailto:rdhaliwal@paulweiss.com)>; Brewster, Bill <[BBrewster@kilpatricktownsend.com](mailto:BBrewster@kilpatricktownsend.com)>; Wolin, Bryan

<[BWolin@kilpatricktownsend.com](mailto:BWolin@kilpatricktownsend.com)>; Benson, Craig A <[cbenson@paulweiss.com](mailto:cbenson@paulweiss.com)>

**Subject:** RE: Energizer v Duracell - Amended Complaint

We will not be in a position to tell you our position on Friday. We will let you know early next week after we have had an opportunity to review and discuss with our client.

Best.

Andrew

**Andrew Gordon** | Partner ([Bio](#))

**Paul, Weiss, Rifkind, Wharton & Garrison LLP**

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**From:** Henn, Charlie <[CHenn@kilpatricktownsend.com](mailto:CHenn@kilpatricktownsend.com)>

**Sent:** Wednesday, September 9, 2020 1:50 PM

**To:** Johnson, Darren W <[djohnson@paulweiss.com](mailto:djohnson@paulweiss.com)>

**Cc:** Gordon, Andrew <[agordon@paulweiss.com](mailto:agordon@paulweiss.com)>; Delaney, Aaron <[adelaney@paulweiss.com](mailto:adelaney@paulweiss.com)>; Medina, Richard A <[rmedina@paulweiss.com](mailto:rmedina@paulweiss.com)>; Dhaliwal, Rajdeep S. <[rdhaliwal@paulweiss.com](mailto:rdhaliwal@paulweiss.com)>; Brewster, Bill <[BBrewster@kilpatricktownsend.com](mailto:BBrewster@kilpatricktownsend.com)>; Wolin, Bryan <[BWolin@kilpatricktownsend.com](mailto:BWolin@kilpatricktownsend.com)>

**Subject:** Energizer v Duracell - Amended Complaint

Darren-

Next Friday, September 18, is the deadline to amend pleadings. Energizer intends to amend its Complaint as reflected in the attached redline. Given the liberal standards applicable to amending pleadings, and the fact that the Scheduling Order contemplates an amendment by next Friday, please confirm by COB this Friday (Sept. 11) that Duracell consents to us filing the Amended Complaint without the need for a contested motion.

Thanks,  
Charlie



**Charlie Henn**

**Kilpatrick Townsend & Stockton LLP**

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